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ABSTRACT

Rhaeto-Romansh is a Neo-Latin language with three varieties. Occidental Rhaeto-Romansh (Romansh) is spoken in Switzerland, in the Canton of the Grisons. Central Rhaeto-Romansh (Dolomite Ladin) is spoken in some of the Italian Dolomite valleys, in the Province of Belluno, Bozen/Bolzano, and Trento. Oriental Rhaeto-Romansh (Friulian) is spoken in northeast Italy, in the Provinces of Gorizia, Pordenone, Udine, and Venezia. The administrative and state borders separating these communities have determined particular linguistic developments and led to diversified forms of juridical defense. This paper examines juridical regulations for the defense of the Rhaeto-Romansh groups present in the Autonomous Province of Bozen, in the Canton of the Grisons, and in the Autonomous Region Friuli-Venezia Giulia. It highlights the regulations recently adopted in favor of the Friulian linguistic community, which until 5 years ago, was one of the least safeguarded Rhaeto-Romansh groups. It also examines Regional Law 15/96, which was the first organic law for the defense of the Friulian language, and describes Law 482/99, which put into practice the fundamental principle on the defense of minorities provided for by Article 6 of the Constitution. It concludes that once the Executive Rules of Law 482 are issued, Friulians will have many useful juridical instruments for making their linguistic rights prevail. (SM)

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William Cisilino

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[The juridical defence of Rhaeto-romansh languages, with particular reference to the Friulian case

William Cisilino

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Rhaeto-Romansh is a Neo-Latin language which presents three varieties. Occidental Rhaeto-Romansh (Romansh) is spoken in Switzerland, in the Canton of the Grisons; central Rhaeto-Romansh (Dolomite Ladin) is spoken in some of the Italian Dolomite valleys, in the Province of Belluno, Bozen/Bolzano and Trento; oriental Rhaeto-Romansh (Friulian) is spoken in the north-east of Italy, in the Provinces of Gorizia, Pordenone, Udine and Venezia.

The administrative and state borders which separate these communities have not only determined peculiar results and linguistic developments, but have also led to quite diversified forms of juridical defence. In this brief study I will take into consideration the juridical regulations for the defence of the Rhaeto-Romansh groups present in the Autonomous Province of Bozen, in the Canton of the Grisons and in the Autonomous Region Friuli-Venezia Giulia. Particular attention will, however, be given to the regulations

recently adopted in favour of the Friulian linguistic community which, until five years ago, was one of the least safeguarded Rhaeto-Romansh groups.

1. The Defence of the Ladin Minority of the Autonomous Province of Bozen[1]

"The Ladins of the Autonomous Province of Bozen[2] were able to follow quite faithfully the path paved by the German minority of South Tyrol, with the result of having obtained the recognition of their specificities by constitutional and provincial laws as far back as the end of World War II."[3]

It is quite usual in the history of linguistic rights that the smallest ethnic groups have obtained real advantages owing to the fact that they are a "minority within the minority". This is particularly true if the regulative power is in the hands of the hosting minority or, more generally, if the hosting minority is politically influential.[4] The case of the Ladins in South Tyrol is exemplary, if nothing else because it is possible to make a comparison, both historical and "in real time", with the situation of the Ladins living in the other provinces.

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[1] This short study will take into consideration only the juridical defence of the Dolomite Ladin minority of the Autonomous Province of Bozen. However, the Dolomite Ladin minority is also present in the Autonomous Province of Trento, where it is safeguarded by specific regulations, and in the Province of Belluno, where it has not been granted any incisive form of defence (some progress in this direction can be made with the bringing about of State Law 482/99). For information on the history and the language of the Dolomite Ladins (*Ladins dolomitans*), see RICHEBUONO B., *Breve storia dei ladini dolomitici*, San Martin de Tor, 1992; BELARDI W., *Storia sociolinguistica della lirgua ladina*, Roma, 1991; b. *Breve storia della lingua e della letteratura ladina*, San Martin de Tor, 1996; CRAFFONARA L., *I ladini delle Dolomiti*, San Martin de Tor, 1994. For an insight on the defence of linguistic minorities in Trentino-South Tyrol, see MINISTERO DELL'INTERNO, *La tutela delle minoranze linguistiche in Italia. b) Il caso del Trentino-Alto Adige in Europa: cultura e tutela delle minoranze*, Roma, 1996; MILIANI MASSANA A., *Derechos lingüísticos y derecho fundamental a la educación. Un estudio comparado: Italia, Bélgica, Suiza, Canadá y España*, Madrid, 1994, pp.119-141; TOSO F., *Frammenti d'Europa*, Milano, 1996, 80 ss.; PALICI DI SUNI PRAT E., *Intorno alle minoranze*, Torino, 1999, p. 41 ss.; Ib., *La minoranza linguistica ladina in Trentino - Alto Adige*, in *Le Regioni*, 1983, p. 526 ss.; PIZZORUSSO A., *La minoranza ladino dolomitica come minoranza linguistica riconosciuta*, in *Giurisprudenza Costituzionale*, 1994, 3005 ss.; FROSINI T.E., *Il diritto elettorale della minoranza linguistica ladina*, in *Giurisprudenza Costituzionale*, 1998, 2754.

[2] That is to say, the Ladins living in Val Gardena and in Val Badia.

[3] RASOM O., *Fonti normative in materia scolastica e culturale*, in *La minoranza ladina*, Trento, 2000, p. 142.

Since its appearance in the first *Special Statute for the Trentino-South Tyrol Region*[5] in 1948, under the heading *Use of the German and Ladin Languages*, Art. 87 has secured the teaching of Ladin in elementary schools (successively regulated by the Ord. Min. 5145/76 of 1948), the respect of traditional place-names, and special funding for the promotion of cultural happenings.

With the reform of the Statute in 1972[6], the regulations of the defence of ethnic minorities in the Province of Bozen were further developed, together with a considerable enlargement of the competences ascribed to the autonomous provinces. The teaching of Ladin was extended to nursery schools and provided for as "a teaching implement in schools of every order and grade" (Art. 19). This article also introduced the figure of "Ladin School Supervisor" (*Intendente ladino*) for the administration of Ladin schools, who was to be chosen (originally by the Ministry, nowadays by the Province) among a group of people belonging to this ethnic group. In this way, it was possible to guarantee a long-lasting co-ordination of the Ladin school system by providing it with its own board and with a specialized managerial staff. At the same time, the new repartition of school subjects granted the provincial councils the power to issue legislative regulations in matter of nursery schools, of elementary and secondary education, and of educational assistance.[7]

In the 80s a series of Executive Decrees of the Statute of Autonomy of 1972 and of provincial laws contributed to further reinforce the presence of Ladin, especially in educational and cultural spheres. In this context, great importance is retained by the DPR[8] 89 of 1983, which regulates teaching methods: it establishes a prevalent use of Ladin "in nursery schools and in the first grade of elementary schools" and introduces it as an effective subject (Art. 7) from the second to the fifth grade. Alongside the subjects (and those

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[4] We can remember, for instance, the case of the Aranese (of Occitanian origin) of Catalonia or of the Walser community of Valle D'Aosta.
[5] Constitutional Law n. 5 of 26 February 1948.
[6] DPR n. 670 of 31 August 1972.
[7] Moreover, in 1976 a regional law (27/76) had founded the Ladin Institute of Culture named "Micurâde Rü".
[8] "Decreto del Presidente della Republica".

taught in) Italian and German, Ladin schoolchildren basically have two hours of Ladin a week, plus two hours of religion, which is traditionally taught in Ladin as well. This same amount of teaching hours is also maintained in secondary schools, where Ladin is an end-of-the-year exam subject, with both written and oral tests (Provincial Law 48/83). The teaching of Ladin as part of the curriculum in comprehensive schools (one hour a week) was introduced only five years ago by Provincial Law 13/95.[9]

Against all reservations on the inappropriateness of teaching children several languages simultaneously[10], it has resulted that the percentage of promotion in public bilingual examinations for students coming from Ladin schools is more than double than that for their mates coming from Italian or German schools.[11] The peculiarity of the Ladin school system can also be seen in the criteria used to recruit teaching staff. Ladin candidates have absolute priority and both teachers and managerial personnel must speak all three provincial languages.

Next to the above-mentioned importance that the Ladin School Supervisor holds in the Ladin school system, there is another very influential element, which, in particular, plays a fundamental role in the professional training and cultural updating of the teaching staff: it is the Ladin Pedagogical Institute (*Istitut Pedagogich Ladin*) founded, on the basis of the DPR 574/1988, by the Decree of the President of the Province of Bozen n. 1269/1990. Among the Institute's functions, there is pedagogical research, experimentation in teaching methodology, didactic documentation, and the teaching of the Ladin language and culture. The Institute also has a central role in the editing of school textbooks.

With regards to the use of Ladin on the part of the institutions, we have already mentioned that the Ladin place-names are recognized by the Statute of Autonomy.[12] The Ladin-speaking people can use

[9] For a comparison with the school system in Trentino, see *Ensegnament del lengaz e cultura ladina te la scola de l'obligh (Provincial Law. n. 4 13 February 1997)*, Trento, 1997.
[10] On the possibilities children have of learning more than one language, see Fabbro F., *Cemût tirâ sù fruts che a fevelin ben tantis lenghis*, in *Il cjâf dai furlans*, Udine, 2000.
[11] Paressler T., *Un tetto per tre lingue*, Bolzano, 1994, p. 26.
[12] The reference is to Art.102 of the Special Statute of '72.

their language both in oral and written forms when dealing with offices of public administration situated in Ladin communes[13] and even in offices that do not belong to these communes when they work in the interest of the Ladin people (DPR 574/1988[14]). The administrations must answer speaking in Ladin and include a Ladin translation of documents originally written in Italian or German. All public records must be written in Ladin as well.[15] The members of the councils of the local boards[16] situated in the Ladin valleys have the right to use their language and, if there are members who don't understand Ladin, on request an immediate translation into German or Italian will be provided. The relevant proceedings are drawn up in all three languages. The right to the use of Ladin is also provided for in juridical lawsuits taking place in the province of Bozen.

In accordance with the principle of "ethnic proportionality", the assignment of public posts is carried out according to the consistence of every linguistic group (German, Italian, and Ladin), which is calculated on the basis of the declarations of ethnic belonging stated in the official population censuses. In the census of 1991, 18,434 people of the entire Province, that is to say 4.36 per cent of the whole population, declared themselves "Ladins".[17] The knowledge of the co-official languages, which is a fundamental requirement for admittance to a post in public administration, is stated in a special certificate which is released after that the person has passed a written and oral examination.

The Ladins also have special rights in matter of representation in collective and executive political bodies. In particular, Art. 62 of the Statute of Autonomy establishes that the laws regulating the elections of the Regional Council, of the Council of the Province of Bozen, and of the councils of the local boards "must guarantee the representation of the Ladin linguistic group"; further down, paragraph 2 of Art. 61 sanctions that the linguistic groups with at

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[13] Translation of "comuni".
[14] As modified by the D. Lgs 267/92, 446/ 96 e 354/ 97.
[15] Provided that they are issued by offices situated in Ladin communes or that they prevalently work in the interest of Ladin people.
[16] Translation of "enti locali".
[17] The communes with a Ladin majority (always according to the census of 1991) are La Valle, S. Martino in Badia, Badia, Marebbe, Corvara, Santa Cristina, Selva, Gardena e Ortisei (data taken from *Manuale dell'Alto Adige*, Bolzano, 1998, p. 191).

least two councillors have the right to be represented in the Governments of the communes[18]. Furthermore, the provincial Ladin councillors have the authority to contest the regional and provincial laws that violate the rights of the Ladin minority in front of the Constitutional Court, in the cases and according to the forms dictated by Art. 56 of the Statute.[19]

The definitive introduction of radio and TV broadcasting in Ladin on the RAI (*Radio Televisione Italiana*) is to be ascribed to Art. 103 of 1975[20] The recent pact between the Cabinet and the Agency holding the concession for the RAI, which was signed in July 1997, has established the annual limit of 352 hours for radio broadcasting and 39 hours for TV broadcasting.[21]

2. The Defence of the Romansh Minority of the Canton of the Grisons[22]

[18] Translation of "Giunte comunali"

[19] Another analogous procedure is also provided for in the case of contestation of budget items, which can even lead to a judgement emitted by the Regional Administrative Court (Art. 84).

[20] Art. 19, section C of the Law (*New Norms in matter of Radio and Television Broadcasting*) reads: "The society holding the concession must transmit radio and television programmes in German and *Ladin* in the province of Bozen (...)."

[21] Distributed in the following way: Radio: 13.30-13.50/ 19.00-19.05 news programmes; 13.50-14.04/ 19.05-19.30 cultural programmes. Television: every day from 19.55 to 20.00 news programme; every Thursday from 20.30 to 20.40 cultural programmes (on the last Thursday of the month, from 20.40 to 21.10, specials). Six professional journalists and three programme directors work for the Ladin RAI.

[22] Romansh (*Rumantsch*) is spoken in the Grisons, the south-eastern canton of the Swiss Confederation, situated in the heart of the area which comprehends Tessin, Uri, Glarus, and Sankt Gallen (Switzerland), Liechtenstein, Vorarlberg and Tyrol (Austria), and South Tyrol and Lombardia (Italy). It is one of the four linguistically-diversified cantons (German, Italian, Romansh) and also has, as do the others, great autonomy in cultural spheres. The traditional Romansh-speaking area includes five areas which are loosely connected to one another. First of all, there's the Upper Val del Ren (Surselva) [1], and some parts of the Lower Val del Ren (Sutselva) [2]. Then, there's Sutses e Surses (Surmeir) [3], Upper Engadin (Alta Engiadina) [4] and Lower Engadin (Bassa Engiadina) with the Val Müstair [5]. Five different idioms correspond to each of the five areas: Sursilvan, Sutsilvan, Surmiran, Putèr and Vallader. The Rhineland idioms (Sursilvan, Sutsilvan) are very different from the Ladin ones (Putèr, Vallader), while Surmiran represents a sort of bridge-language between the two groups. Nowadays Romansh is spoken by 30,000 people living in the Grisons (17% of the cantonal population) plus other 10,000 in the rest of Switzerland (totally by 40,000, that is 0.6 % of the Swiss population). To these we must add the 25,000 (10,000 in the Grisons, and 15,000 in the rest of Switzerland) who have declared that they speak Romansh at least at home, at work, and at school, even if it is not their primary language (5.6 % of the Grisons population and 0.4 % of the Swiss population). At the moment Romansh is losing ground to the advantage of German, owing to the fact that, up until now, trilingualism in the canton hasn't led to a real equality among the three languages. With regards to this aspect, I would like to cite the words of Morand who states that "the submission experienced by the

The first institutional recognition of the Romansh language goes back to 1794, when the Grisons, which at the time were called "The Republic of the Three Leagues", hadn't yet become part of the Swiss Confederation.[23] This decision, adopted by the Republican Diet, was very important[24] because it laid the foundations for the introduction of trilingualism (Romansh, German, and Italian) in the Cantonal Constitutions, which followed in 1880 and 1892. However, these recognitions did not impede a strong Germanization of the Grisons, which is also ascribable to a more or less declared interest on the part of the governing class.[25]

It was only in 1938 that Romansh made a real advancement. In those years, in fact, the Italian linguists were trying to conform more to the "Italiot" myth of the Fascist regime than to the writings of De Saussure or Ascoli, and one of their main aims was to obtain the admittance of Romansh

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Romansh community could lead to more serious linguistic conflicts". In order to have a complete idea on the status of linguistic rights in Switzerland, see MOHNHAUPT C.-A., *I diritti linguistici in Svizzera*, in *Le Regioni a.XV, n. 6*, December 1987; D., *Aspectes del dret de les llengues a Suissa*, in *Ordenació legal del plurilingüisme als Estats contemporanis*, Barcelona, 1983; DESSEMONTET, *Le droit des langues en Suisse*, Québec, 1984; MARTI – ROLLI, *La liberté de la langue en droit suisse*, Lausanne, 1978; DIPARTIMENTO FEDERALE DELL'INTERNO, *Quadrilinguismo svizzero - presente e futuro*, Berna, 1989. On the juridical safeguarding of Romansh, see GROSS - CATHOMAS – FURER, *Retromancia, Facts e Figures*, Coira, 1996; VILETTA R., *Abhndlung zum Sprachenrecht mit besonderer Berücksichtigung des Rechts der Gemeinden des Kantons Graubünden, Bd. 1: Grundlagen des Sprachenrechts. Zürcher Studien zum öffentlichen Recht 4*, Zürich 1978; MUNICH MIGUEL, *Derechos lingüísticos y derecho fundamental a la educación*, Madrid, 1994, pp. 257-267; CATHOMAS B., *Rhaeto-Romansh in Switzerland up to 1940*, in *Comparative Studies on Governments and Non-dominant Ethnic Groups in Europe 1850-1940 Vol III - Ethnic Groups and Language Rights*, New York, 1993, pp. 89 ss. On Romansh in general, see CATHOMAS W., *I Retoromanci oggi: Grigioni-Dolomiti-Friùli*, Lugano, 1989; FURER J.-J., *La morte del romancio (sarebbe) l'inizio della fine per la Svizzera*, Cuere, 1981; ID., *Le romanche en péril? Evolution et perspective*, Berne, 1996; GRUPPO DI LAVORO PER LE REGIONI LINGUISTICHE DEI GRIGIONI, *La situazione delle regioni linguisitche dei Grigioni- Postulati e provvedimenti*, Cuere, 1994. I would like to address a special thanks to Jean-Jacques Furer for the precious information he gave me.

[23] The union of the Three Leagues (League of Caddea, League of Grisons and League of the X Jurisdictions) was formed around the end of the XV century. It entered the Swiss Confederation with the name of the Grisons Canton in 1803.

[24] We can affirm that it was a real breakthrough, since up until then the Diet had always confirmed the legitimacy of German only.

[25] We must not forget that the capital of the Grisons, Chur (Coire, Cuira, Coira), is not situated in the Romansh area, but in the German area. The city was fully under the cultural influence of German after 1464, when a fire destroyed it completely and it was rebuilt and repopulated by German-speaking artisans. Confederation censuses bear witness to the regression of Romansh: in 1880 it was spoken by 1.4% of the population, in 1980 by 0.8% and in 1990 only by 0.6% (as preferred language, plus an 0.4% as a language spoken in one of the studied fields).

amongst the Italian dialects. These provocations began to spread the conviction among the Swiss people that the time had come to formally recognize Romansh, in their Federal Constitution, as the "fourth national language" of Switzerland. "National" language did not however mean "official" language and, in reality, the recognition didn't yet guarantee a real equality, on a formal level, among the four languages.

However, before making it (partially) official in '96, both the Confederation and the Canton approved such a great amount of regulations for the defence and promotion of Romansh, that the recent constitutional changes can be read as the final act of a process which began many years ago. Among the most important measures taken up, mention must go to the *Law on Official Publications of the Confederation*, which establishes that the "most important federal legislative records" (Art.14) be published also in Romansh, and to the *Confederational Instructions for Romansh Translations* of 1986, which lists the things that have to be translated into this Rhaeto-Romansh language (i.e. the printed matter of the federal administration, inscriptions on buildings, indicator signs and danger notices etc.) and establishes when a legislative record must be considered "important". Even in the Cantons, the administrative use of Romansh has special guarantees. On the basis of Art. 46 of the Constitution of the Grisons, which re-proposes the traditional officialization of all three idioms[26], a series of juridical regulations, which establish a Romansh version of the *Systematic Collection of Laws of the Canton of the Grisons*, of electoral material, of certificates, of documents from civil registers, and, more generally, of all the official texts of the Canton administration, were issued. Even in the Grand Council, that is, the Legislative assembly of the Grisons, one has the right to speak in any of the three languages, and, if needed, to ask for a translation into the language known[27] (Art. 30 of the *Organic Regulations of the Grand Council*). Moreover, every commune can freely choose the language to use in public administration. Up until now the communes of Bassa Engiadina and of Val Müstair and those of S-chanf and Zuoz (Alta Engiadina) have chosen to use Romansh.

[26] "The three languages spoken in the Canton are guaranteed as languages of this Region". The three languages referred to are, of course, German, Italian and Romansh.
[27] In reality almost no one has ever spoken Romansh in the Grand Council.

Instead, the use of Romansh in law courts still presents quite a few difficulties. In federal civil lawsuits the legislators are more permissive and acknowledge the right to use one of the *national* languages during the trial[28], but they ban the use of Romansh in the written emission of the sentences. In federal criminal and administrative lawsuits, only one of the *official* languages may be used both for the debate and for the publications.[29] The Canton regulations explicitly recognize, instead, Romansh as a juridical language to be used in both administrative and cantonal courts[30], even if "only German is considered valid for the execution of the sentences."

On 10th March 1996, the Swiss people accepted, with a majority of 76 per cent, to insert the partial officialization (i.e. the officialization only when dealing with Romansh citizens) of the Romansh language into the Federal Constitution.[31] This decision has not brought substantial changes to the status of the Romansh language, but it has rather formalized – as mentioned above – an already existing situation. Banknotes, passports, railways, post offices, telephone companies[32], and four companies of the Swiss army[33] are only some of the most important areas in which the use of Romansh has been introduced over the past few years. (We must not forget that Romansh is also traditionally used in religious offices). Furthermore, on a cantonal level, the introduction of Romansh into schools and means of communication has also been fundamental. But before going on to analyse these two aspects, we must give some attention to the regulation of linguistic rights as found in the new Federal Constitution.[34]

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[28] Art. 4 of the federal law of 4 December 1974 of Federal Civil Procedure.
[29] Art. 97 of Federal Criminal Procedure; Art. 95 of Military Criminal Procedure; Art. 37 of Federal Administrative Procedure.
[30] Art. 20 of the *Law on administrative justice of the Canton of the Grisons* and Art. 28 of the *Ordinance on the Organization and Administration of the Cantonal Court*.
[31] Art. 116 of the Federal Constitution in force up until 18/04/1999: "The official languages of the Confederation are German, French, and Italian. Romansh is the official language *when dealing with Romansh citizens*. Specific cases are regulated by the law." (Italics added)
[32] Railways and post offices regularly use Romansh for their printed matter as well. The telephone directory has an informative part in Romansh and, finally, even the telephone service which tells the exact time is in this language.
[33] These companies, with their base in the Grisons, are commanded in Romansh. The long-termed purpose of this is to reach a definitive use of Romansh as the language of command for certain companies and its current use in military spheres.
[34] Made valid by "the Canton population" on 18 April 1999, on the basis of the *Federal Decree for a new Federal Constitution* of 18 December 1998.

The reform has had the merit of finally clarifying what the jurist Morand had defined as "the most illegible fundamental Charter in the world".[35] The reference to "language" appears in at least seven articles (a few more than in the preceding version): in Art. 4, which defines the national languages[36]; in Art. 8, where discrimination for linguistic reasons is banned[37]; in Art. 18, which introduces into the Constitution a principle already recognized by the federal court, that is, the principle that sanctions that "linguistic freedom is guaranteed"[38]; in Art. 31, which recognizes that "whoever is deprived of his freedom has the right to be immediately informed of the reasons of this loss and of his rights in a language he understands"; in Art. 69, which obliges the Confederation to consider the "country's cultural and linguistic plurality" when operating in cultural spheres; in Art. 70, which, indexed under the heading "languages", takes up the reform of '96 and recognizes that "Romansh is the official language when dealing with native Romansh-speakers" (paragraph 1) and that "the Confederation supports the measures for the preservation and promotion of the Romansh and Italian languages taken up by the Canton of the Grisons and by Tessin." (paragraph 5)[39]; and finally in Art. 118, which obliges the Federal Assembly "to take into consideration the principle of representation of the official languages when electing federal judges". The Federal Court has the competence to judge the violations of constitutional rights, including, of course, linguistic rights.

Passing on to examine the educational field (which lies within the competence of the Canton), the single communes become very important, since the legislation of the Grisons delegates the choice of the teaching language in elementary schools directly to the communes. Out of 121 Romansh communes, 86 have chosen a Romansh school (all teaching in Romansh up until the third grade, integrated with 4 to 6 hours in German from the fourth grade onwards) and 16 have chosen a German school, with the inclusion of Romansh as a school subject (2 to 3 hours of Romansh a week). Moreover, the

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[35] MORAND C.-A., *I diritti linguistici*, *cit.*, p. 1359.
[36] "The national languages are German, French, Italian and Romansh."
[37] "No one can be discriminated, in particular, (...) for the language one speaks (...)".
[38] I lack the space here to deeply analyse this concept. I will only say that the Romansh people could make better use of it so as to safeguard their linguistic rights.
[39] With regards to this point, the *Federal law for the financial subsidies for the defence of the Romansh and Italian languages* of 1995 provided for the possibility to finance general measures of defence, bodies that are engaged in the safeguarding of the language, and

majority of the communes also has one or more Romansh nursery schools.[40] According to cantonal programmes, in secondary schools students have 2 to 4 hours a week of Romansh as a school subject and teaching is done using Romansh as a vehicular language during the hours of biology, music and art. In professional institutes one or more subjects are taught in Romansh, in comprehensive schools there are 2 to 4 hours a week of Romansh, with the addition of a minimum of two other subjects taught in Romansh (in teachers' training schools). Since 1996 the School for Applied Linguistics in Chur has activated a specialization course in Romansh, while the Universities of Zurich and Fribourg founded (respectively in '85 and '91) the Chair of Romansh Language and Literature.

In order to avoid costly complications in the public use of Romansh, due to the differences between the five historical idioms[41], on 2nd April 1996 the Government of the Grisons decided to adopt the common Romansh version called *Rumantsch Grischun*[42], as the official language to be used with all the Romansh population. The Confederation also uses this version.

The presence of Romansh in the radio and television[43] is guaranteed by the *Cuminanza rumantscha radio and television* (CRR), founded in 1946, which is an autonomous unit of the Swiss Radio and Television Company. Altogether programmes in Romansh are broadcasted for 15 hours a day on the radio and for slightly more than an hour a week on television. Programmes focus mostly on informing (sixty journalists, including freelancers, with correspondents for the different areas of the country) and on entertaining.[44] Yet the real "boast" for the Romansh people is "La Quotidiana", a newspaper

publishing activities, with particular regards to Romansh printed matter (with the sole condition that the cantons have to contribute to the costs with a share of 25%).

[40] *Lia Rumantscha* also runs a nursery school situated in the capital Chur.

[41] See note 1.

[42] Rumantsch Grischun was set down by the Romansh scholar Heinrich Schmid at the beginning of the eighties, on commission of *Lia Rumantscha*. This "compromise language" is based on the three idioms (Sursilvan, Vallader and Sumiran) and is built on a principle of majority, that is to say, by choosing — when possible — the form common to the majority of the above-mentioned idioms. In a survey of 1994 66 % of the Romansh people said they were in favour of the official language.

[43] Romansh was broadcasted on the radio for the first time in 1943 and on television in 1963.

[44] Radio and TV programmes are broadcasted on the basis of the public concession granted by the Federal Council.

completely edited in Romansh and subsidized by the Confederation and the Canton.[45]

The body that is in charge for linguistic policies and for the promotion of Romansh is *Lia Rumantscha* (Romansh League), founded in Chur in 1919 as the co-union of the various Romansh associations. With its 20 staff members *Lia* assures several linguistic services, such as the creation and diffusion of neologisms, the study of specialized language sectors, and the promotion of the official Romansh version. Other services include translations for private and public bodies and publishing, through the publication of important works, such as dictionaries, grammars, manuals, books on technical terminology etc. Since 1986, *Lia* has also disposed of a service of information and documentation aimed at sensitising and updating citizens on the Romansh language.

Lia Rumantscha is subsidized by the Confederation and by the Canton with about 3 million Swiss Francs (3.8 billion lire) a year. Federal subsidies to the Grisons Canton for the preservation and promotion of Romansh and Italian amount to a total of 6 million Swiss Francs (7.6 billion lire).

3. The Defence of the Friulian Minority of the Autonomous Region Friuli - Venezia Giulia[46]

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[45] "La Quotidiana" first came out in 1997 and since then has reached a circulation of almost 10,000 copies. Most of the advertisements are, however, in German.

[46] Friulian (*furlan*) is a Neo-Latin language of the Rhaeto-Romansh group which is spoken in the Provinces of Gorizia, Pordenone and Udine of the Autonomous Region Friuli - Venezia Giulia and in the Province of Venice (*Mandament di Puart*) of the Veneto Region. It developed into a language more or less around the year 1000 and has throughout the centuries maintained an originality of its own which makes it, still today, very different from Italian and from the other languages spoken near that area (German, Slovenian, and Venetian).
Friuli (*Friûl*) was anciently inhabited by the Carnics, a population of Celtic origin, and was conquered by the Romans in 181 B.C. After a period of Longobardic and Frank domination, it became an Autonomous State, jointly governed by the Patriarchs of Aquileia and a Parliament (the Parliament of the Patria of Friuli). In 1420 it was conquered by the Venetians who governed the region allowing it certain forms of autonomy until 1797, when, after the defeat of the *Serenissima*, it passed under Austria. In 1866 Friuli (with the exception of the eastern area which became Italian only in 1918) finally became part of the Reign of Italy.
The first documents in Friulian, as well as the first poetic texts, date back to the XII-XIII centuries. From then onwards, the literary production in Friulian has grown steadily, reaching notably high stylistic results (Ermes di Colorêt, Catenna Percoto, Pier Paolo

Pasolini). Moreover, around the XIX century, there was the development of a common literary language which was codified in authoritative texts and which is, still today, an important reference point for the process of linguistic standardization. There are also several Friulian dictionaries and grammars and it is taught in the Friulian Universities, as well as in the Universities of Trnest, Prague, and Ljubljana. Since its origins, the Church has always used the Friulian language in religious ceremonies and in catechism, and has recently published an integral translation of the Bible and of the Lecture Book. In 2001 Friulian was also recognized by the Vatican as a liturgical language.

The first official recognition of the Friulian language came about only in 1996 with the passing of Law n. 15/1996 of the Autonomous Region Friuli - Venezia Giulia, and not without some opposition on the part of the State (that had rejected the first bill). The latter has recognized the Friulian minority only recently with Law n. 482/99, over 50 years after the passing of Art. 6 of the Constitution, which gave the legislator the mandate "to defend linguistic minorities with specific regulations". It is superfluous to note that such a delay – due to a number of cultural, political and ideological factors – played a fundamental role in accelerating the process of assimilation of the majority language and culture, with the result of relegating Friulian to a situation of diglossia which it will be extremely difficult to counter.

The Friulian language is spoken by almost 600,000-650,000 people, but recent statistics have denounced a worrisome decrease of the speakers, especially among young people. Friulian has lost 18% of its speakers over a period of 12 years, while over a period of 20 years there has been a decrease of 20% in using Friulian as he language spoken to one's children. In relationships with public administrations (or, more generally, in relationships of a formal nature) the majority of citizens uses only Italian and, during this school year which is coming to end, only 20 schools have experimented the teaching of Friulian (usually with Italian as the vehicular language). Over the past year, the State radio and television (*RAI*) have dedicated very little space to the Friulian language (less than 2 hours). The initiatives present in the mass-media sector are mainly private (a couple of pages on two weekly newspapers; a monthly newspaper; a radio station which broadcasts programmes in Friulian almost exclusively and another one which partially broadcasts programmes in Friulian; 15 minutes weekly on a local TV channel).

For more information on the Friulian linguistic minority, see, among the many: Cavallo Z. – Cescje A. – Begot P.C., *La nazione Friuli*, Udine, 1980; Cisilino W., *La legge di tutela della minoranza linguistica Friulana della Regione Autonoma Friuli – Venezia Giulia*, in *Ce fastu? LXXVI n.2*, 2000; Colautti S., *Población y comportamiento lingüístico en dos naciones europeas sin Estado: el Friul y Cataluña*, in *Llengua i Dret n° 22*, 1994; D'Aronco G., *Friuli, regione mai nata*, Reana, 1983; Id., *Nuova antologia della letteratura Friulana*, Campoformido, 1992; Ellero G., *Storia del Friuli*, Roma, 1997; Fagon G., *Grammatica Friulana*, Campoformido, 1997; Frau G., *Individualità linguistica del Friulano*, Udine, 1974; Gregor D.B., *Friulian: Language and literature*, Cambridge, 1975; Gruppo di studio alpina, *I gruppi linguistici del Friuli e della Venezia Giulia*, Bellinzona, 1972; Maniacco T., *Storia del Friuli*, Roma, 1985; Marchet J. – Placerean F., *Cuintristorie dal Friûl fin tal dì di vuê*, Reane, 1977; Marchetti G., *Lineamenti di grammatica Friulana*, Udine, 1952; Menis G., *Storia del Friuli*, Udine, 1974; Ministero dell'Interno, *Europa: cultura e tutela delle minoranze*, Roma, 1996; Nazzi G. (ed.), *Dizionario biografico Friulano*, Udine, 1997; Id., *DeFriulanizzazione di Gorizia*, Udine, 1995; Pajero D., *Minoranze linguistiche e governo locale nel Friuli – Venezia Giulia*, in *La tutela giuridica delle minoranze*, Padova, 1998; Peressi L., *Mezzo secolo di cultura Friulana: indice delle pubblicazioni della Società Filologica Friulana. Quattro supplementi per gli anni 1975-1990*, Udine, 1975-1994; Perini N. (par cure), *Atti del convegno europeo "Innovazione nella tradizione: problemi e proposte delle comunità di lingua minontaria"*, Udine, 1991; Pittana A., *Appunti sull'identità Friulana*, in *I retoromanci oggi: Grigioni-Dolomiti-Friûli*, Lugano, 1989; PP. AA., *Chiesa e culture in Friuli*, Udine, 1988; PP. AA., *Gruppi etnico linguistici della provincia di Udine*, Reana, 1978; PP. AA., *Contribuzion par une bibliografie (1945-1997)*, Padova, 1998; Prost B., *Le Frioul région d'affrontements*, Gap, 1973; Roseano P., *Identità Friulana*, Gorizia, 1999; Salvi S., *Le Nazioni proibite*, Firenze, 1973; Id., *Le lingue tagliate*, Milano, 1975; Strassoldo R., *Lingua, identità, autonomia – ricerche e riflessioni sociologiche sulla questione Friulana*, Campoformido, 1996.

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Introduction

The official recognition of the Friulian linguistic minority is very recent and is established by two laws: regional law n. 15 of 1996 of the Autonomous Region Friuli-Venezia Giulia and Law 482 of 1999 of the Italian Republic.

Up until then, the only references to the Friulian language that could be found in both state[47] and regional[48] legislative texts were only incidental, or relegated the defence of the Friulian language to a more ample project of cultural promotion. These dispositions were, thus, more inclined to developing Art. 9 of the Italian Constitution of 1948 (defence of cultural heritage), rather than the specific principle for the defence of minorities, established by Art. 6, that says that "the Republic defends linguistic minorities with specific regulations". In order to understand the reasons (at least the juridical reasons) which caused such a great delay in the general putting into being of Art. 6 of the Constitution, we must consider that the central Government interpreted, on one hand, the question of the minorities (and, from there, Art. 6) as regarding exclusively the South Tyrolese[49], French[50] and – partly – Slovenian[51] communities

[47] Such as Art. 26 of Law 546/77 institutive of the University of Udine, which commits the Friulian university "to help the social development and the economic renewal of Friuli and to become the tool for the development and renewal of the original seams of the *language*, the history and the traditions of Friuli" (italics added). Other references to the Friulian language in legislative state texts can be found in the Decrees of the President of the Republic (of the early eighties) institutive of degree courses in Friulian Language and Literature. Amongst the non-legislative documents, there is the Act of the National Council of Public Education of 15 June 1993 on linguistic minorities, and the reports issued between 1994 and 1996 by the Central Office for the Problems Concerning Border Areas and Ethnic Minorities of the Ministry of the Interior (1994: "First Report on the Status of Minorities in Italy", "First Report on a Europe of Minorities" 1995: "First Report on the Cultural Aspects of the Minorities historically present in Italy", 1996: "Europe: the Culture and Defence of Minorities").

[48] I'm referring to regional laws n. 6 of 7 of February 1992, n. 36 of 8 June 1993 and n. 48 of 22 June 1993.

[49] Also the Dolomite Ladin one, but, with all probability, without the influence of the German minority, the Dolomite Ladins would have also been ignored by the regulations on minorities.

[50] Of Val d'Aosta.

[51] The situation of the Slovenian minority is quite peculiar. To summarize, the Italian institutions have always limited the measures of defence (which, moreover, differ the one from the other) to the members residing in the Provinces of Gorizia and Triest. The Slovenians of the Province of Udine have only recently been recognized by Law n.23/2001 on the defence of the Slovenian minority, issued on February 23 of this year (which also has the merit of granting this matter a certain order and unity).

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(despite the disapproval of a considerable group of jurists[52]). On the other hand, in all cases it considered the defence of the minorities as being exclusively within its competence (tolerated, but only up until the beginning of the 80s, by the Constitutional Court) and refused any type of initiative taken up by the Regions to regulate this phenomenon (regional laws were systematically turned down because "they invaded an area that falls within the competence of the state"). We do not have the space here to discuss these matters[53], but suffice it to say that, as long as this policy was adopted, the recognition of Friulian, and of the other linguistic minorities, remained impossible (the State did not pass any regulations of defence and - at the same time – it impeded the Regions to do so too)[54].

The passing of the regional law 15/96, and of the other regional laws with a similar content[55], inaugurated a new phase for the positions held by the State towards the minorities (which several decisions made by the Constitutional Court had already anticipated[56]) and paved the way for the passing of the law on the defence of historical linguistic minorities in 1999 (which had been shelved by Parliament for over 20 years).

Since the state law has not been enforced yet (while writing this article, the Executive Rules[57] were passed by the Council of Ministers and attends only the approval of the State Audit Court for its issuing[58]),

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[52] Among the most critical jurists I would like to remember PIZZORUSSO A., who (in *Commentario della Costituzione*, Bologna, 1975) stated: "Fra le minoranze prive di ogni tutela è da ricordare il gruppo linguistico ladino del Friuli" (Among the minorities devoid of any sort of defence, we must mention the Ladin linguistic group in Friuli").

[53] Among the many contributions to this topic, I would like to signal: PIZZORUSSO A., *Ancora su competenza legislativa regionale (e provinciale) e tutela delle minoranze linguistiche*, in *Le Regioni* 1984, p. 238; CARROZZA P., *La Corte ribadisce la competenza regionale in tema di misure di tutela della minoranze linguistiche*, in *Le Regioni* 1988, 176 ss.; Ib. *La Corte e l'uso dello sloveno nel processo (Samo Pahor colpisce ancora...)*, in *Le Regioni* 1992, 62 ss.

[54] And, like in a vicious circle, the Regional Committee of Control (*Co.re.co.*), denied the communes the power to pass regulations of defence in favour of the Friulian language. One example for all is that of the Commune of Codroipo, where the Co.re.co. censored an article of the Statute which referred to the use of the Friulian language. For this reason, the commune took up a lawsuit against the Region, in front of the Regional Administrative Court (*Tribunale Amministrativo Regionale*) of Friuli -Venezia Giulia, and won (Sentence T.a.r. of F.-V.G. n. 783 of 15 July 1996).

[55] For example Regional Law of 11 September 1997 of the Autonomous Region of Sardinia on the "Defence and promotion of the Sardinian culture and language".

[56] Especially sentences 312/1983 and 289/1987.

[57] Translation of "Regolamento".

[58] In reality, according to Art. 17 of Law 482/99, the regulations should have been issued within six months of the entering in force of the law (that is, within the 4 June 2000).

and since we are dealing with diverse regulative implements, in this study I will analyse them separately, trying to highlight, when needed, where they overlap and where they differ.

Regional Law 15/96

On 27 February 1996, under the heading "Regulations for the defence and promotion of the Friulian language and culture and founding of the Service for regional and minority languages", the Council of the Autonomous Region Friuli - Venezia Giulia promulgated the first organic law for the defence of the Friulian language.[59]

We must acknowledge the merit of the regional legislator[60] who actually played all the cards possible in order to put together a complete law with a "European" backbone (in Art. 4 there is an adherence to the principles contained in the European Charter of Regional and Minority Languages). Yet Law 15 is classified more as a cultural policy than a linguistic policy.[61] We owe this fact both to restrictions of the Special Statute (the Region has no legislative competences in two areas which are fundamental for the survival of a language, that is, the school system and radio-television broadcasting), and to reasons of political opportunism, which did not allow the legislator to fully exploit his competences.[62] However, Law 15 includes regulations that are also very important for linguistic rights, which we will hereunder analyse.

The first element to consider is the value ascribed to Friulian in the regional context. Art. 2 considers "the defence of the Friulian

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[59] The law was promulgated on 22 March 1996 and published in the *Bollettino ufficiale della Regione Autonoma Friuli — Venezia Giulia* of 27/03/1996 in Italian and of 19/03/1997 in Friulian.

[60] And especially to the councillors Cadorini e Cecotti, respectively President of Restricted Committee of the III Commission that drew up the bill of law and the President of the Region who promulgated the law.

[61] It's one thing to finance certain cultural activities (cultural policy) and another to establish linguistic rights in favour of citizens speaking a certain language (linguistic policy). A part from the inadequacy of mere cultural policies in the presence of a situation of diglossia so difficult as in the Friulian case, we must not forget that our Constitution and Regional Statute, in paying special attention to the Jurisprudence of the Constitutional Court, ask for something more: the right for citizens to use their mother tongue in all social contexts.

[62] We must not forget that the first bill of law on the defence of Friulian passed by the Regional Council was thrown back by the central government.

language and culture as a matter of central importance for the development of the special autonomy". The same article defines Friulian as "one of the languages of the regional community", even if it is difficult to say whether it is a real recognition or not, that is to say, whether this article is enough to define Friulians as a " recognized minority" according to the Jurisprudence of the Constitutional Court. Of central importance is also Art. 1 which obliges the Region to "exercise an *active policy* of preservation and *development* of the Friulian language" (italics added). Rather than in its programmatic aspects, the importance of this law lies in its specific transposition of the principle of substantial equality contained in Art. 3, paragraph 2, of the Constitution to the Friulian language. In fact, the exercise of an "active policy of development of the Friulian language" legitimates the regional institutions to intervene with measures of affirmative action (i.e. with measures that favour Friulian) so as "to remove the economic and social obstacles which, in limiting the freedom and equality of the citizens, impedes a full development of the human personality" (Art. 3, paragraph 2, of the Constitution)[63].

Art. 5 establishes the modalities for delimiting the territories where the regional law will be effective[64], which will also have validity for the state law, provided that the project for the Executive Rules of Law 482/99 approved by the Council of Ministers is passed[65].

Perhaps the most important regulations of Law 15 are contained in Art. 11 and in Art. 11 bis, since they admit the possibility to apply certain linguistic rights in favour of citizens who speak Friulian. Art. 11 establishes a generic right on the part of the Region and the other local boards to use Friulian.[66] More incisive is Art. 11 bis, which sanctions the possibility for local boards endowed with statutory autonomy to provide for: a) the written and oral use

[63] In reality the "economic and social obstacles" to the use of Friulian have a juridical co-origin, that is, the non-carrying out, for over fifty years, of Art. 6 of the Constitution.

[64] The communes in which Friulian is spoken have been individuated by two Decrees of the President of the Region: 0412/96 and 0160/99. The communes are 174 all together, out of a total of approximately 219: almost 80%.

[65] Art. 1, paragraph 5, project for the Executive Rules of Law 482/99.

[66] The carrying out of this law in Regional administrations is delegated by paragraph 2 to a set of regulations that should have been issued within 1998. To this day these regulations have not even been projected yet.

of Friulian in their Councils; b) the use of Friulian place-names,[87] c) the use of Friulian in other situations, such as in the relationships with citizens.

In my opinion, these activities could have been already provided for on the basis of Law 142/1990 (on the regulations of local autonomies), but the inclusion of explicit regulations has resulted adapt, if nothing else, because it eliminates all doubts on legitimacy[88] and creates a certain legislative uniformity[89] (I will talk about the problematic relationship between regional and state legislation on this subject later on).

Art. 27 and 29 establish measures of promotion of the Friulian language, respectively, in schools and in the radio-television sector; since these two spheres are not within the competence of the Region, it has only been able to provide for external measures of support (and, even those, have been under-subsidized).

As mentioned above, the law has established a number of regulations for "cultural promotion" (especially by establishing the modalities of funding to associations or public bodies that operate in the fields of Friulian language and culture), which take up most of the funds (in 2000, 2,800,000,000 lire). Moreover, it elects the "Observatory of the Friulian language and culture" as the Region's instrument for the defence of the Friulian language.

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[87] The regulations of the State Law (and of the Project for Executive Rules) on place-names are basically identical (cfr. Art. 10 of the law 482/99 and Art. 9 of the Project for Executive Rules). The Executives Rules also coincide with another regional measure — to be honest, not much respected — that is, Art.1, paragraph 10, of the Regional Law 13/2000 which establishes that bilingual place-names (in compliance to the Road Code and to International Treaties) must give equal graphic dignity to the inscriptions in Friulian.

[88] We want to denounce that, still today, the Regional Committee of Control tends to block the statutory regulations of the local boards on the defence of linguistic minorities, despite a practically unanimous jurisprudence. It would be good if the competent bodies put an end to this illegitimate behaviour.

[89] After having recalled the Region's exclusive competence in matter of local regulations and after having highlighted that, according to Art.128 of the Constitution, statutory regulations find their limit in the principles of the general laws of the Republic, PIZZORUSSO D. (*Minoranze linguistiche e governo locale nel Friuli – Venezia Giulia*, in *La tutela giuridica delle minoranze*, Padova, 1998, pp. 126 e 127) affirms that "regional law n.15/1996 can now pose, and effectively poses, limits to the commune's competence with regards to the issuing of regulations for the defence of linguistic minorities". On this topic see also: GEMMA V., *Aspetti giuridici degli articoli 11 e 11 bis della legge regionale n.15/1996*, in *Atti del Convegno su la lingua Friulana negli statuti degli Enti locali*, Udine 30.06.1999 e CISCUTTI C., *La lingua Friulana negli statuti comunali del territorio*, *ibidem* [Both works are very well done, but unpublished].

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even if, in reality, this institution, owing to its propelling nature, has simply been reduced to a consultative commission, with limited capabilities to take up direct action[70], without administrative autonomy, and devoid of personnel[71].

To conclude, I would like to signal other two regional regulations, which are not contained in Law 15, but which are very important for their content. I am referring to Art. 123 of the *Internal Regulations of the Regional Council*, which establishes that "besides in Italian, in the meetings of the Regional Council the councillors can express themselves, both orally and in written forms, in one of the languages of the linguistic groups present in the Region. Records are exclusively in Italian". The other regulations are found in Art. 42 of the regional law of September 1997, n. 31, where the Region engages itself in the adoption of "the means necessary to make effective an equal treatment of citizens belonging to minority language groups present in the Region, even with reference to the right to exert relationships with the offices of the regional Council and Administration."

Law 482/99 on the defence of historical linguistic minorities: influence on the juridical status of Friulian

Law 482/99 was promulgated on 15 December 1999[72] in order to put into practice the fundamental principle on the defence of minorities provided for by Art. 6 of the Constitution, which had been waiting to be carried out for over 50 years. We definitely cannot say that this law had an easy bearing: right up to the end the opposing parties assumed very heavy obstructive measures and even certain Parliament members representing the majority had quite a few reservations on this bill[73]. This witnesses that the question of minorities

[70] With a budget of 400 billions (in 2000).

[71] On this topic I dare to refer to Cisilino W., *La legge di tutela della minoranza linguistica friulana della Regione Autonoma Friuli – Venezia Giulia*, in *Ce fastu?* LXXVI n.2, 2000, pp. 301-303.

[72] The law was published in the *Gazzetta Ufficiale della Repubblica italiana* n. 297, of 20 December 1999.

[73] So much so that the spokesman for the bill at the Senate, Felice Besostri, was greatly surprised by the strong negative reactions that were aroused against a bill that, in reality, only wanted to put into act one of the articles of the Constitution and to introduce into the Italian Regulations most of the principles that had already been approved by international documents on the situation of minorities. Almost grotesque were the comments of the senator Giulio Andreotti (one of the leading opponents of this bill) who went as far as stating

is still considered — both by much of the Italian public opinion and governing class — as something necessarily against the State, instead of as a search for and a feature of pluralism.

In reality, as has been pointed out in one of the first studies on Law 482[74], the Italian laws on minorities have "much in common with the dispositions contained in international and European documents, which have been issued on this subject over the past few years." As a matter of fact, the Italian Government signed the European Charter on Regional and Minority Languages shortly after its approval.[75]

With regards to our discussion on the influence that these new state laws have had on the juridical status of Friulian, it must, first of all, be said that thanks to this law (Art. 2) Friulians can be considered under all effects a "recognized minority": this allows for the application of both the specific juridical consequences established by the regulations (especially those on the use of the language in proceedings), and those that the jurisprudence of the Constitutional Court has tied *sic et simpliciter* to this *status* (a fact that enables us to go beyond the above-mentioned doubts on the recognition made exclusively by the regional legislator).

The most important regulations of this law are those that regard the introduction of Friulian into the school system and in radio and television programmes (i.e. the two sectors in which Law 15 was unable to intervene directly).

The legislator decided to introduce Friulian (and other minority languages) into the school system on two levels. The first level, contained in the first paragraph of Art. 4, regards the use of Friulian as a vehicular

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that "a little more time is needed to reflect on these measures". In reality the bill had been presented in Parliament over 20 years earlier.

[74] Palici di Suni Prat E., *La legge italiana sulla tutela delle minoranze linguistiche storiche nel quadro europeo*, in *Diritto pubblico comparato ed europeo 2000 - I*, p. 101.

[75] The signing took place on 27 June 1999, but I doubt that the law of ratification can be passed by Parliament with a certain rapidity. Moreover, in 1997 the Italian State also ratified the Council of Europe Framework Convention for the Protection of National Minorities. On the Framework Convention, I bring your attention to the works of Ioe X., *La protección de*

language and also prescribes the use "of the minority language as a teaching implement" in nursery, elementary, and secondary schools. The other level, established by the second paragraph of Art. 4, regards the teaching of Friulian as a curricular subject: in this case, the regulations prescribe that every school, in the fulfilment of its organizational autonomy, has to decide upon methods, schedules, criteria of evaluation, and modalities for the hiring of teaching staff, in order to guarantee the teaching of the minority language, not without taking into consideration the requests parents make before enrolment.

It must be said that neither of these dispositions charges the schools with the mere "faculty" to insert activities in favour of the minority languages, but with a real obligation. In fact, the legislator always uses the present tense, with a clear dogmatic intent: "the use of the minority language *is provided for*" (paragraph 1); "in order to *assure* the learning of the minority language, schools *deliberate* ... the methods for the fulfilment of the teaching of the language..." (paragraph 2). (Italics added)

On the contrary, a combined reading of paragraphs 2 and 5 establishes that not all students are obliged to attend Friulian lessons; it applies only to those students whose parents explicitly requested it before enrolment (this limit does not exist for the use of Friulian as a vehicular language: in this case all decisional power is retained by the schools).
Therefore, we can notice that, while schools are obliged to arrange for activities in Friulian, parents can choose to ask that their children be excluded from the teaching of Friulian (they cannot counter, instead, the use of Friulian as a teaching implement).

Art. 5, paragraph 1, of Law 482 (as specified by Art. 2, paragraph 1, of Project for Executive Rules) adds that, at the beginning of every school year, the Ministry of Public Education must "indicate", with its Decrees, "the general criteria for the fulfilment of the measures contained in Art. 4". These regulations must, thus, be attended in order to understand to what

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las minorías nacionales en el Consejo de Europa, IVAP, 2000, and of Bianchi Bianchi F., *La minoranze nazionali in Europa – diritti garanzie doveri*, Bologna, 2001.

extent the teacher will be free to choose the vehicular language and what the exact decisional powers the directing boards of the schools will have[76].

Moreover, on the basis of Art. 5, the Ministry of Public Education has already taken up projects for the study of minority languages, to which the law finances 2 billions a year.[77] I wish to highlight that, since the law loads the teaching staff already at the school's disposal with the task of introducing the minority language, it would be good if the above-mentioned funds were used above all to promote initiatives aiming at the training and cultural up-dating of the teachers. A very good training opportunity is also provided by experiences of co-teaching with external teachers, an initiative included among those financed by the regional laws 15/96 and 4/99.

Another very important set of regulations are those regarding the introduction of minority languages in public radio and television broadcasting (*RAI*) (Art.12). Relying once again on a text that reveals a binding nature ("conditions of safeguarding *are assured*"), the legislator has disposed that the pact between the Ministry of Telecommunications and the Agency holding the concession for public television (and, consequently, the contract stipulated for the supplying of the services) must contain specific measures for the defence of the minorities. Moreover, Art. 11, paragraph 2, of the Project for Executive Rules, adds that the pact must also specifically indicate the office of the *RAI* wherein which these activities of defence will be carried out and a basic outline of these same activities according to one of the measures laid down in Art. 11, paragraph 2, letter a) of the European Charter of Regional and Minority Languages.

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[76] I think that the best solution is to establish, through a Decree, a minimum of hours in which teaching is done using Friulian as a vehicular language, and to leave to the directing boards of the schools all decisions regarding the single subjects to teach in Friulian according to the availability of the teachers. Moreover, it would be better if the Decrees established the precise terms within which the schools located in the communes speaking the minority language have to predispose their study plans for the Friulian language. The Ministry should also oblige these schools to provide all parents, before enrolment, with a form wherein they are asked to express whether they are going to take advantage of the teaching of Friulian.

[77] It is the circular letter n. 89, Prot. N. 4037 of 22 May 2001, entitled "Intervention and financing plan for the carrying out of national and local projects in the study of the languages and cultural traditions of those belonging to linguistic minorities". Since I received it only shortly before finishing this article, I will leave further discussions on it for another occasion.

With regard to the use of Friulian in local boards, if we consider the exclusive competence retained by the Autonomous Region Friuli - Venezia Giulia in the organization of the local boards (Art. 4, paragraph 1, number 1-bis of the Special Statute of Friuli - Venezia Giulia), it should be possible to apply, in this case, only the regulations of Law 15, which grant, as aforesaid, a lot of decisional autonomy to the local boards (cfr. Art.11-bis of the regional law 15/96). The legislative autonomy also applies to the offices of regional administration (Art. 4, paragraph 1, number 1, Special Statute F.-V.G.). We must, however, say that the connections between Law 15 and Law 482 on the use of Friulian in public administration will have to be studied more thoroughly, owing to the fact that the state law[78], with its imperative quality, seems more favourable than the regional law. In fact, Art. 9 of Law 482 provides for a general right for citizens to use of the minority language in oral and written forms in public offices, without having to wait for the specific regulations laid down by the local board's statutes or by the Region. Moreover, the same Law establishes that all the administrations must assure "the presence of personnel who can *answer* questions put by people using the language granted defence" (italics added): this assumes that citizens have a right to be answered in their mother tongue.[79] Some of these problems can be resolved by the Executive Decree of the Special Statute, established by Art. 18 for the application of the more favourable dispositions established by Law 482.

In any case, we must also consider that, according to the jurisprudence of the Constitutional Court, the title of "recognized minority" already grants citizens of that minority the right to use their own mother tongue and to receive answers in the same language (Sentences 28/82; 62/92; 15/96). Therefore, as a consequence of the recognition made by Art. 2 of Law 482, Friulian citizens have already a right to use the Friulian language in public administration, both actively (right to communicate orally and in written form) and passively (right to receive oral and written answers). It is, however, clear that these rights cannot be asked for in their totality immediately, but will have to be applied progressively with a certain reasonableness, taking into consideration the

[78] Contrarily to what I had affirmed in a previous article.
[79] Art. 6, paragraph 1, of Project for Executive Rules provides for the institution of "at least one window" for citizens who want to speak it.

organizational needs that the administrations may have, but not allowing that these needs become excuses to delay *sine die* the respect of the Friulians' linguistic rights.

The use of Friulian in lawsuits is also connected to the recognition made by Law 482. Contrarily to what was reported in many newspaper articles, Art. 9, paragraph 3, of Law 482, does not limit the use of Friulian only to lawsuits in front of Justices of the Peace, but — by stating that "the dispositions laid down by Art. 109 of the Code of Criminal Procedure remain valid" — it clarifies that minority languages are fully legitimated even in front of criminal judicial authorities. In fact, according to the second and third paragraph of the above-cited law: "2. In front of judicial authorities that have competence in proceedings of the first degree or of appeal on a territory inhabited by a *recognized linguistic minority*, the Italian citizen belonging to this minority is, on request, interrogated or examined in his/her mother tongue and the related records are compiled also in that language. The proceedings released to a person who has requested them are also translated into that same language. (...) 3. If the dispositions of this article are not observed, the proceedings are subjected to nullification" (italics added). Therefore, Friulians that will have trouble with criminal justice, can ask to use the Friulian language during the trial and the magistracy will have to guarantee the presence of qualified translators and interpreters in order to assure this right.[80]

We shall conclude by saying that, once the Executive Rules of 482 are issued, Friulians will have a number of good juridical instruments at hand which will enable them to make their linguistic rights prevail. From that precise moment, the responsibility to put them into practice and to insist on their carrying out, or to leave them in the drawer will be all theirs.

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[80] For civil lawsuits the Constitutional Court — referring to the Slovenian minority (but, by comparison, extensible to other recognized minorities as well) — has established that the official language in lawsuits continues to be Italian, but the person can ask to use his mother tongue and consequently the records, drawn up in his language, will be translated into Italian while the other records, drawn up in Italian, will be translated into his mother tongue. If these regulations are not carried out, the lawsuit is not subjected to nullification. On this sentence see ANTONINI L., *Minoranza slovena e uso della lingua nel processo: una tutela riconosciuta (soltanto a Trieste?)*, in *Le Regioni, XXIV, N. 4*, 1996, pp. 716 ss.; on the previous sentence see CARROZZA P., *La Corte e l'uso dello sloveno*, *cit.*, pp. 62 ss.

Comparative chart of the juridical defence of the Rhaeto-romansh languages

	ROMANSH	DOLOMITE LADIN (BZ)	FRIULIAN
Officialization	Romansh is a "national language" (together with Italian, German, and French) of Switzerland and the "official language" when dealing with the Romansh people (*Art. 4 & 70 of the Swiss Constitution*). It is also one of the official languages of the Canton (*Art. 46 of the Grisons Constitution*).	There is the possibility to use Ladin when dealing with offices located in the Ladin areas of the Autonomous Province. Public administrations are obliged to answer orally in Ladin or to provide a Ladin translation of all records (*DPR 574/1988*).	The right to use Friulian in public offices is delegated to statutory autonomy of the local boards and to the regulative autonomy of the Region (*Art. 11 & 11-bis L. R. 15/96*). However, the state law provides for a generalized use of the mother tongue and the right to be addressed in it (*Art. 9 L. 482/99*).
Publication of juridical regulations of the State in the minority language	All "the most important federal legislative records" are also published in Romansh (*Art. 14 L.p.u.Cj.*)		
Publication of regional (or cantonal) juridical regulations and public records in the minority language	A Romansh version of the *Systematic Collection of Laws of the Canton of the Grisons* and of the official texts of the cantonal administration is	The Ladin version of regional juridical regulations is not provided for. Public records are drawn up in Ladin only if they are issued by offices that are located in Ladin	The state law only grants the communes the *possibility* to draw up official records of the State, of the Region, or of local boards in Friulian

	provided for.	areas or that work prevalently for the interests of the Ladin people *(DPR 574/1988)*.	*(Art. 8 L. 482/99)*
Right to speak the minority language in Regional (or Cantonal) Councils	In the legislative assembly of the Grisons, one has the right to speak in any of the three languages *(Art. 30 Reg. Cj. G.)*		The use of Friulian is admitted only in addition to Italian. However, written recordings are made only in Italian *(Art. 123 R. C. R. F.- V. J.)*
Use of the minority language in the administration of justice	It is admitted only (except in the emission of the sentences) in federal civil lawsuits and in administrative and cantonal courts *(Art. 97 P.p.f., Art. 95 P.p.m., Art. 37 P. a. f.; Art. 20 L.j.a.Cj, Art. 28 O.o.T.Cj)*.	It is admitted in juridical lawsuits held in the Province of Bozen.	One has the right to be questioned in one's mother tongue by the justice of the peace or in criminal lawsuits. The proceedings of these lawsuits must also be drawn up in the person's mother tongue *(Art. 9, c. 3, L. 482/99 & 109 C.P.P.)*.
Teaching of the minority language in schools	The teaching language in elementary schools is chosen by the communes. Out of 121 communes, 86 have chosen a Romansh school and 16 a German school, with	In elementary schools there are 2 hours of Ladin a week (plus 2 hours of religion) *(DPR n.89 of 1983)*. This same amount of teaching hours is also maintained in secondary schools *(prov. law 48/83)*. In	In nursery, elementary, and secondary schools, "the use of the minority language as a teaching implement" is provided for. The schools will also have to administrate

	Romansh as a school subject. From 2 to 4 hours of Romansh are also provided for in secondary and comprehensive schools.	comprehensive schools there is 1 hour of Ladin a week (*prov. law 13/95*). Coordination is guaranteed by the Ladin School Supervisor. There is also a Ladin Pedagogical Institute.	and coordinate the teaching of Friulian as a school subject (*Art. 4 L. 482/99*)
Existence of a Chair of "Language and Literature" of the minority language in state Universities	Two: in the Universities of Zurich and Fribourg.		Two: in the Universities of Udine and Triest.
Presence in public radios and televisions	There is a Romansh Radio and Television station (CRR). All in all, broadcasting in Romansh amounts to 15 hours a day on the radio and slightly more than an hour a week on television.	The RAI broadcasts 352 hours a year of radio programmes and 39 hours of television programmes (*law 103 of 1975*).	Specific measures for the defence of Friulian will be taken up once an agreement on public radio and television broadcasting is signed (*Art. 12 L. 482/99*)

Press media exclusively printed in the minority language	The Romansh people have a newspaper called "La Quotidiana", which is subsidized by the Confederation and by the Canton.	The weekly newspaper "La Usc di ladins", is their main printed matter.	A monthly newspaper (La Patrie dal Friûl)

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